

Serial No. 10/849,506

Applicant: ISHAK, Andrew

Art Unit: 2873

Examiner: Raizen, Deborah A.

Page 6

limitations in claim 1 that average blue light transmission of said lens is less than 0.4% and the limitation in claims 7 and 14 that at least 99% of blue light is blocked at up to 490 nm is not disclosed or claimed in the parent application 10/000062 for the sunglass lens that comprises grey-tinted plastic (see, for example, Figure 2, in which average blue light transmission from 420 to 450 nm is greater than 1% and from 450 nm to 490 nm is about 10%). The Examiner is correct as this is Applicant's mistaken reference to the amber specifications of the parent application. The correct performance statistics for the present grey lens (as shown in FIG. 2) is ultraviolet absorption of 99.94% of UV-A & B light occurs to at least 400 nm, and average blue light transmission is 6.84%. Claims 7 and 14 are amended accordingly.

The Examiner rejected claims 1-13 under 35 U.S.C. 112, first paragraph, and second paragraph, as being indefinite and for failing to comply with the written description requirement. According to the Examiner, the limitation "angularly displaced" in line 3 of claim 1 and line 4 of claim 7 was not disclosed or claimed in the parent application as originally filed, nor is it described in the specification of the current application, and is indefinite. This language is herein removed and replaced by the limitation "six thin film layers", which is well-supported and clear.

The Examiner rejected claims 1, 2, 4, 5, 14, 15, 17, 18, and 20 under 35 U.S.C. 103(a) as being obvious over Farwig (6,145,984) in view of Willard et al. or the NACL website, and further in view of Johansen et al. (4,878,748). According to the Examiner, Farwig discloses a sunglass lens (col. 1, line 13), comprising each and every element of the cited claims except for less than 0.4% average blue light transmission, which was not supported. Claims 1 and 14 are herein amended to reflect the proper average blue light transmission, which is supported, and Farwig does not meet the balanced light transmission profile for use on the water in which at

Serial No. 10/849,506

Applicant: ISHAK, Andrew

Art Unit: 2873

Examiner: Raizen, Deborah A.

Page 7

least 99.94% of UV-A & B light is blocked to at least 400 nm and average blue light transmission is 6.84%. This profile is a direct function of the specific grey-color-tinted lens layers (2) sandwich a polarizing layer, and a six-layer dielectric mirror theratop. Neither the specific tints used herein, nor the number of dielectric layers, nor any other feature is merely design choice or obvious because without such feature the recited profile could not be met. Claim 1 is herein amended to clearly recite two grey-tinted lens layers sandwich a polarizing layer, and the six-layer dielectric layer that blocks 99.94% of UVA & B to at least 400 nm, and average blue light transmission is 6.84%, such profile being optimum for use on the water.

The Examiner's rationale that one skilled in the art would be moved by the NACL website to avoid health issues by increasing blue absorbing molecules as in Farwig is pure speculation. Farwig '984 does not teach which tints reach attain which result at all, let alone the recited profile herein. Indeed, the Examiner herself notes that all of lens thickness, dielectric mirror thickness, and tint are variable (to name just a few) affecting the outcome. Given the presently stated outcome, it cannot be said that all combinations that attain it are obvious, yet this is what the Examiner is doing. Of course dielectric mirrors can have 5-11 layers as stated in the NACL website. Indeed, they can have two to infinity. However, this fails to teach that six layers, in combination with the other recited limitations of claim 1, achieve the stated profile.

It is well settled that an inventive combination cannot be anticipated by finding individual features separately in the prior art and combining them in a piecemeal manner to show obviousness. See, In re Kamm and Young, 17 USPQ 298, affd. (Court held that "The rejection here runs afoul of a basic mandate inherent in section 103 - that a piecemeal reconstruction of the prior art patents in the light of appellants disclosure shall not be the basis for a holding of

Serial No. 10/849,506

Applicant: ISHAK, Andrew

Art Unit: 2873

Examiner: Raizen, Deborah A.

Page 8

obviousness. See, also, *In re Rothermel*, 47 CCPA 866, 870, 276 F.2d 393, 396, 125 USPQ 328, 331 (1960).

Neither Farwig '984, nor Johanson, nor the cited background art teaches or suggests two grey tinted layers, nor six-layer dielectric, nor the combination of the foregoing with the encapsulated polarizing layer, and the combined prior art cannot achieve the specified light transmission profile. It is submitted that claim 1 as amended is patentably distinguished. Claims 4, 8, 10, 13, 15 and 20 are canceled. Claims 2 and 5 depend from claim 1 and are likewise distinguished. Claims 14, 17 and 18 are also amended to include the particular profile of claim 1 and are likewise distinguished.

The Examiner also rejected claims 6-11, 13 and 19 under 35 U.S.C. 103(a) as being obvious over Farwig (6,145,984) in view of Willard et al. or the NACL website, and further in view of Johansen et al. (4,878,748) and Evans et al. (6,220,703). Claim 12 was additionally rejected as obvious over this combination in further view of Larson '680 and Gupta '819. According to the Examiner, claims 6, 7 and their dependents add molecular bonding, as does Evans '703. However, this sets aside the fact that claims 6 and amended claim 7 likewise (as argued above) clearly recite two grey-tinted lens layers sandwich a polarizing layer, and the *six-layer dielectric layers* that blocks 99.94% of UVA & B to at least 400 nm, and average blue light transmission is 6.84%, such profile being optimum for use on the water. Thus, claims 6 and 7 are patentably distinguished for the same reasons described above, as are depending claims 9, 11 and 19.

Serial No. 10/849,506

Applicant: ISHAK, Andrew

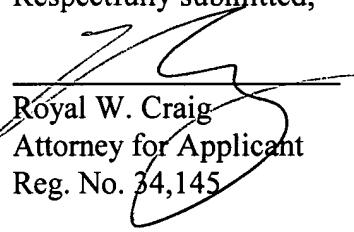
Art Unit: 2873

Examiner: Raizen, Deborah A.

Page 9

All of pending claims 1-3, 5-7, 9, 11-12, 14 and 17-19 as herein amended are patentably distinguished and in all other respects should be in condition for allowance. A Notice to this effect is respectfully requested.

Respectfully submitted,


Royal W. Craig
Attorney for Applicant
Reg. No. 34,145

Law Offices of Royal W. Craig
10 N. Calvert St.
Suite 153
Baltimore, Maryland 21202
410-385-2383